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March 8, 1918.

Re: Council Bill No. 27401, defining and regulating "free or donation busses"; power and authority of city council regarding emergency ordinances returned by mayor.

Messrs. W. D. Lane and A. F. Haas, Chairmen,  
Judiciary and Public Safety Committees,  
City Council,  
Seattle, Washington.

Gentlemen:

You have advised this department that Council Bill No. 27401, defining and regulating "free or donation busses" in the City of Seattle, an emergency ordinance, has been returned to the city council without the mayor's approval, and request an opinion "as to the power and authority of the city council with reference to emergency ordinances returned by the mayor."

The language of that portion of Section 1 of Article IV of the City Charter governing emergency measures - "and it shall not become an ordinance unless on its final passage by the city council at least three fourths of all the members elected vote in its favor . . . and it shall have been approved by the mayor . . ." - in our opinion admits of but one construction, viz.: that the affirmative action of the mayor upon a council bill is necessary to permit of its becoming an ordinance, and that the absence of his affirmative approval "kills" the measure and prevents any further action thereon by the city council.

It should be noted in this connection that the only charter provision applicable to the emergency ordinance under consideration is that comprised within the initiative and referendum amendment of Section 1 of Article IV. It was the obvious intent of the people, in adopting the charter amendment, to reserve the right of the referendum without restriction as to all ordinances except emergency measures, and ordinances providing for the approval of local improvement assessment rolls and for the issuance of local improvement bonds. In order that an emergency measure, upon which, under the charter amendment, no referendum can be had, should not be passed hastily or unadvisedly, it is provided that before such a measure can become an ordinance (and not subject to the referendum) certain

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requirements, additional to those provided for the enactment of an ordinary thirty day ordinance, shall be met, viz.: a favorable three-fourths vote of all members elected to the council, and in addition an approval by the mayor shall be had. The unusual requirements relative to the passage of an emergency ordinance find no analogy in any other charter provision, and the manifest purpose is to safeguard the right to exercise the referendum and to restrict the limitations upon such exercise to those situations in which an emergency exists of such an obvious character that in the judgment of three fourths of the elected members of the council, and the mayor, extraordinary legislation, as to which the people have no right to invoke the referendum, is required to meet it.

The principle involved in your inquiry - "Does the veto of the mayor kill an emergency ordinance and prevent any further action thereon by the city council" - has been previously passed upon by this department. Under date of June 4, 1912, in an opinion rendered to Mayor Cotterill, this department, as then constituted, construed the section of the charter here involved, and held that the affirmative action of the mayor was an essential requisite to the validity of such a measure.

You are advised, however, that this construction does not preclude the council from enacting, as an ordinary measure, legislation upon the identical subject embodied in the emergency measure vetoed by the mayor, and that a council bill without the emergency provision, but otherwise identical in terms and intent with the vetoed measure, may be passed by the council, and if vetoed by the mayor may be passed over his veto as a thirty day ordinance under the provisions of Section 16 of Article IV of the charter.

We return herewith Council Bill No. 27401, and the mayor's veto message accompanying the same.

Respectfully,

HUGH M. CALDWELL  
Corporation Counsel

By EDWIN C. EWING

Assistant

BCE-B

Encl. (See 'Jitney' folder, case file)

PORTLAND, OREGON  
 HARBORS & PUBLIC GROUNDS  
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 CITY UTILITIES  
 C. B. FITZGERALD,  
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# The City of Seattle

## LEGISLATIVE DEPARTMENT

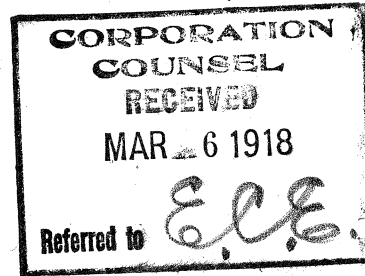
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 COMMITTEE CLERK

*#16873*

Seattle, Washington, March 6, 1918.

Hon. Hugh M. Caldwell,  
 Corporation Counsel,  
 County-City Building, C i t y.



Dear sir:

The Judiciary and Public Safety committees of the City Council  
 would be pleased to receive an opinion from you as to the power and  
 authority of the City Council with reference to emergency ordinances  
 vetoed by the Mayor. Does the veto of the Mayor kill an emergency  
 ordinance and prevent any further action thereon by the City Council?

Council Bill No. 27401, defining and regulating "free or donation  
 busses" in the City of Seattle, an emergency ordinance, has been returned  
 to the City Council without the Mayor's approval and the committees, to  
 which the same has been referred, desires your opinion on the question  
 before making recommendations thereon.

Said council bill, and the Mayor's veto thereof, are sent you  
 (Legis. to be vested in, 7512: City council & mayor veto  
 herewith. to have such powers as set forth in charter.  
 Cordiner Case 55 Wash 481. St. ex rel Bristown v. Meath, 84 Wash. 302 )  
 Yours very truly,

*W. D. Lane*

Chairmen Judiciary and Public Safety  
Committees.

*Contra*

*City of Racine 51 Wis. 526*  
*8 Mo 417*  
*City dependent upon approval*  
*City of Doyle 38 Wis 92*  
*City of + approval "W.T.P. (2 ser) 259.*  
*City of W.T.P. (2 ser) 1085*  
*City of Corn. 17 page 560.*  
*Butler 77 So 560*

*Casey v. Sadman 77 NE 717*  
*Biggs v. McBride 5 L.R.A. 115*  
*Com. v. Williams 86 So 553*  
*Thompson v. State 47 So. 816*  
*Comer v. George 47 So 779*

*over*

Atlantic<sup>TC</sup> & Mallard 43 So. 75  
Bennett & Sengstacken 113 P. 867  
Stephens & Gill 87 Wash. 201